

MEMORANDUM

TO: Superintendents
FROM: Rebecca Holcombe, Secretary of Education
SUBJECT: Compliance with and Waivers from the Transportation Consolidation Provisions of 16 V.S.A. § 261a (a) (8) (E)
DATE: January 8, 2015

This memorandum is intended address some recent questions we have received about what it means to be in compliance with the transportation provisions of 16 V.S.A. § 261a.(a)(8)(E) and when a waiver request to the Secretary of Education may be in order.

As of July 1, 2014, under Act 153 of 2010, it is the responsibility of **Supervisory Union boards** to provide or arrange for the provision of transportation in any districts within the supervisory union in which it is offered. This means the responsibility for paying for transportation services resides with the supervisory union, whether by operating the service or arranging for the service through one or more contracts. **The purpose of this Act was to achieve efficiencies through scale in the delivery of transportation services.** The efficiency of transportation services is to be evaluated from the perspective of the Supervisory Union as a whole, and not from the perspective of individual districts, and individual districts should not operate their own transportation systems at a cost greater than the cost at which the service could be provided by the Supervisory Union.

In short, SUs (or SDs) provide transportation services, not individual districts within an SU, unless the Secretary returns that authority back to a district, through a waiver request by an SU. If an SU provides evidence that it would be more efficient to return authority for providing transportation services to a component school district, an SU can make that case in a waiver request to the Secretary. Otherwise, district level authority (within an SU) to provide transportation services no longer exists. Act 153 clearly intended this outcome, in conjunction with the repeal of Sec. 1221 of Title 16. The Agency will enforce Act 153 in part, through close monitoring of the state level reimbursement for local transportation expenditures as set forth at 16 V.S.A. § 4016. These funds will not be made available to a school district within an SU that has not secured a waiver. Waiver requests can only be made by an SU, acting on behalf of the SU Board. A “waiver district” will be the only case where a school district will be eligible to receive a state transportation grant.

Important Points:

- The decision to apply for a waiver on behalf of one or more districts is made by the supervisory union board. The Agency will not accept waiver applications from districts.
- A Supervisory Union making a waiver request for one or more member districts must provide evidence that the district level provision of transportation services is more efficient.
- State Transportation Aid will be distributed to Supervisory Unions based on qualifying supervisory union transportation expenditures. **Transportation expenses incurred by school districts will not be reimbursed unless a waiver has been granted.**
- As long as the SU (by the SU Board) approves and pays for the transportation services offered by member districts, then the SU is in compliance with the transportation provision at Sec. 261a(8)(E) of Title 16. SUs only need to seek a waiver from the Secretary if these two requirements are not met. AOE expects that SUs ought to be able to meet these baseline requirements through an SU level review and vote of proposed district level transportation plans, and by having the central office act as a single payer, by apportioning member districts per Sec. 301 of Title 16. A single, integrated SU level transportation model with one service provider may be an ideal outcome, but this is not the deciding factor for compliance with the statute. SUs may need to employ disparate transportation schemes among member districts. Assuming that disparate schemes within an SU do not add extra costs on the whole, then having one or more disparate transportation arrangements within an SU is compliant with Act 153, as long as (i) the SU Board reviews and approves, and (ii) the SU pays for the services.

If you have further questions on compliance with the transportation provisions of 16 V.S.A. § 261a.(a)(8)(E) and/or when a waiver request to the Secretary of Education may be in order, please contact Vaughn Altemus at 802-479-1744 or via email at:

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